

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

WINTHROP MANAGEMENT, NORTHWELL
HEALTH, INC., AND DONNELLY MECHANICAL
CORP., Individually, and as Joint Employers and
Successors to WINTHROP MANAGEMENT,
NORTHWELL HEALTH, INC., and PARIS
MAINTENANCE & MANAGEMENT CO., INC.

and

Case 29-CA-188433

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL 30

ORDER¹

Northwell Health, Inc.'s Petition to Revoke Subpoena Duces Tecum No. B-1-VCKV6L and Winthrop Management's Petition to Revoke Subpoena Duces Tecum No. B-1-VCOZWH are denied. The subpoenas seek information relevant to the matter under investigation and describe with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Petitioners have failed to establish any other legal basis for revoking the subpoenas.² See generally, *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² To the extent that the Northwell Health, Inc. has provided some of the requested material, it is not required to produce that information again, provided that Northwell accurately describes which documents under subpoena it has already provided, states whether those previously-supplied documents constitute all of the requested documents, and provides all of the information that was subpoenaed.

Northwell asserts that no responsive documents exist for subpoena paragraphs 3 through 10, or that such documents are not under its possession, custody, or control. Winthrop Management asserts that no responsive documents exist for subpoena paragraphs 2 through 10, or that such documents are not under its possession, custody, or control. The Petitioners are not required to produce evidence requested in the subpoenas

Dated, Washington, D.C., February 8, 2018

MARVIN E. KAPLAN,	CHAIRMAN
MARK GASTON PEARCE,	MEMBER
WILLIAM J. EMANUEL,	MEMBER

that does not exist or that the Petitioners do not possess, but the Petitioners are required to conduct reasonable and diligent searches for all requested evidence. Further, with respect to requested information not in the Petitioners' possession or control, the subpoenas compel the Petitioners to request such information from other persons or companies, if necessary (see par. j of the subpoenas' definitions and instructions, which states that each "subpoena applies to documents in your possession, custody, or control, as well as your present or former agents, attorneys, accountants, advisors, investigators, and any other persons or companies directly or indirectly employed by or connected with you"). If the information does not exist, or if the other persons or companies decline to provide the information, the Petitioners must affirmatively represent this fact to the Region. See *Clear Channel Outdoor, Inc.*, 346 NLRB 696, 702 fn. 10 (2006) ("In responding to a subpoena, an individual is required to produce documents not only in his or her possession, but any documents that he or she had a legal right to obtain," citing *Searock v. Stripling*, 736 F.2d 650, 653 (11th Cir. 1984)). Moreover, if the other persons or companies do not comply with a request for the information from either of the Petitioners, nothing would prevent the Region from seeking that information directly from the other persons or companies.